

Crimes Against Public Justice

Furnishing False Name

Commonwealth v. Clark

Supreme Judicial Court, May 8, 2006

A prosecution under G.L. c. 268, § 34A does not require the Commonwealth to prove a defendant's "true" name, but rather that he used a false name for a dishonest purpose.

After the defendant was arrested, he told the police that his name was Jarod Bailey. A check of police records indicated that Jarod Bailey was an alias the defendant had used before. The defendant was convicted of giving a false name to a police officer after arrest in violation of G.L. c. 268, § 34A.

On appeal, the defendant argued that the Commonwealth failed to prove his "true" name, and that the name he gave was "false." The SJC held that such proof is not required. The court's reasoning is apparent from the following jury instruction, included in the opinion and recommended with regard to the element of use of a false name for prosecutions under c. 268, § 34A:

At common law a person may change his name at will, without resort to legal proceedings, by merely adopting another name, provided he is not using such name for a dishonest purpose. For purposes of G.L. c. 268, § 34A, a false name is one that a person has assumed for a dishonest purpose. Dishonest purposes include, but are not limited to, concealing one's criminal record to avoid being charged as a multiple offender, concealing one's criminal record to obtain more favorable bail consideration, concealing one's identity to avoid answering to an outstanding warrant, or creating a new identity with the intent to default and avoid prosecution on the charge for which one has been arrested.

If a person previously has identified himself to any police department under a name that is different from the name he used following the arrest in question and failed to disclose his prior use of a different name, you are permitted to infer that his failure to make such disclosure was for a dishonest purpose and that he was using a false name. You do not have to draw this inference, but you may do so. It is entirely up to you.

The Commonwealth does not have to prove the defendant's true name. It must prove that he used a false name, that is, that he used a name for a dishonest purpose.